

REMARKS

Reconsideration of this application as amended is respectfully requested.

Claims 13-15, 17, 29-30 and 36-42 remain in the application. Claims 29-30 are allowed.

Claims 1-12, 16, 18-28 and 31-35 are cancelled. Claims 43-45 are withdrawn from consideration. Claims 13, 29, 36 and 40 are in independent form.

Claim Objections

Claims 13 and 17 were objected to because of informalities and have been amended to overcome the objections.

Claims 13-15 were indicated as being allowable if the objections were corrected. Appropriate correction has been made and thus claims 13-17 are believed to be allowable.

Claim Rejections Under 35 U.S.C. §112

Claim 36 has been amended in such manner as to overcome the rejection under 35 U.S.C. §112, second paragraph.

Claim Rejections Under 35 U.S.C. §103

Claim 36:

The rejection of claim 36 as being obvious over U.S. Patent 4,635,958 to Yonemoto in view of U.S. Patent 4,243,247 to Kataoka is respectively traversed. Yonemoto discloses a conventional lever-style suspension height adjustment device. The adjustment lever 100 is coupled to a torsion bar 300 through a splined connection and is adjustable in angular position via adjustment bolt and nut 600 through a limited range. Figure 4 illustrates the device in an assembled condition, while Figure 5 illustrates the device in a non-functional disassembled condition (see col. 3, lines 5-9).

The examiner, in his response to the previous arguments noted on page 8 of the rejection, takes the view that Figures 4 and 5 somehow teach a range of movement of the lever of at least 60 degrees, so as to accommodate the adjustment hub introduced by the examiner from Kataoka. However, it is clear that the examiner is reading more into the drawings than what they reasonably show. Yonemoto clearly describes Figure 5, at col 3, lines 7-9, as showing the

components of Figure 4 but in a disassembled condition. Thus, the condition of the device in Figure 5 is nonfunctional by definition, and the examiner is speculating at best when he asserts that Figure 5 shows an extended (functional) range of movement of the device of Figure 4. There is simply no support for the proposition that one could simply install a longer screw mechanism and make the adjustment device of Figure 4 work in the disassembled condition of Figure 5. This part of the rejection is based purely on possibilities and not on any teaching or suggestion in either reference or any reasonable interpretation of the Figures 4 and 5. Clearly, the examiner's interpretation of what Figure 5 shows is overly broad and is based on hindsight gleaned from applicant's own teachings, and not on any evidence of record. Accordingly, this alone renders the examiner's rejection improper and it is respectfully requested that the examiner reconsider and withdraw the rejection on this basis.

Moreover, the examiner concedes that Yonemoto fails to disclose an intermediate removable hub as called for by claim 36. The examiner looks to the secondary reference of Kataoka to make up for the deficiencies of Yonemoto. However, the examiner ignores the fact that Kataoka expressly recognizes the existence of traditional lever-type adjustment devices of the type disclosed in Yonemoto, and labels them as deficient for a variety of reasons, and provides a completely different suspension height adjustment construction as a solution to the problems. It is necessary and important for the examiner to put himself in the shoes of one of ordinary skill in the art looking at these two references. In doing so, he must consider the references for all they teach, including those aspects which go directly against the proposed combination or modification called for by the examiner in his rejection. In this regard, the examiner's attention is invited to Figures 1 and 2 of Kataoka and the accompanying description at column 1, lines 7-47. Described as prior art is a traditional lever-type height adjustment mechanism of the general type disclosed in Yonemoto. This is significant, since the premise of the examiner's rejection is that one of ordinary skill would first learn from Yonemoto that the degree of adjustability of the lever device of Yonemoto is deficient, and then would look to Kataoka for a solution to the problem. However, when one looks to Kataoka for all that it teaches, it becomes clear that the solution proposed by Kataoka is not to modify the level style height adjustment devices, but rather do away with them all together in favor of the novel tube in

sleeve adjustment device of Kataoka. Column 1, lines 11-47 are reproduced below (underlined emphasis added):

A torsion-bar suspension system of the type having a suspension height adjusting mechanism is well known in the art. This type of torsion-bar suspension system generally includes a transverse torque tube rotatably connected at its ends to the body of a vehicle, a longitudinally extending suspension arm secured at its end to the torque tube and rotatably carrying at its other end a road wheel of the vehicle, and a torsion bar disposed within the torque tube and having one end connected to the torque tube and the other end connected by way of a suspension height adjusting mechanism to a bracket secured to the vehicle body.

Such known suspension height adjusting mechanism is illustrated in FIGS. 1 and 2 of the accompanying drawings of this application. Referring to FIGS. 1 and 2, designated by reference numeral 10 is a torsion bar having one end splined or attached by means of serrations to the bore of an anchor sleeve 12 which is rotatably received within the bore of a sleeve 14. The sleeve 14 is fixedly connected to a frame member 16 of a vehicle body. One end of an anchor sleeve 12, protruding from the sleeve 14, is secured to an anchor arm 18 which is in turn connected to a bracket 20 secured to the frame member 16 by way of an adjusting bolt 22, an adjusting nut 24, a lock nut 26 and bushings 28 and 30. With these arrangements, the adjustment of the suspension height is made by turning the adjusting nut 24 so that the anchor arm 18 swings into a different angular lock position.

This prior art suspension height adjusting mechanism encounters drawbacks that it is complex in structure, furthermore it requires under the vehicle body much space for arrangements of the anchor arm 18, the adjusting bolt 22, the bracket 20 and so on, that is, the prior art mechanism is bulky, and still furthermore it requires under the vehicle body further space for allowing the adjusting operation of turning the nuts 24 and 26.

Kataoka thus clearly contemplates the lever-type height adjustment mechanism like those disclosed in Yonemoto, and the associated problems with such devices. As a solution, Kataoka proposes a completely different design of a height adjustment mechanism, and in particular, one that does away with the lever arm and associated adjustment components including the screw mechanism. Below are relevant parts of the Kataoka disclosure which clearly direct one of ordinary skill in the art to completely abandon the lever-style height adjustment devices such as that of Yonemoto in favor of the completely different style of adjustment device proposed by Kataoka which has no lever:

It is accordingly an object of the present invention to provide a novel suspension height adjusting mechanism for use in a torsion-bar suspension system, which is simple in structure and requires less space than a comparable prior art mechanism. (Col 1, lines 50-54).

From the description thus far made, it will be understood that the suspension height adjusting mechanism of this invention is simple in structure, requires less space and less number of elements than a comparable prior art suspension height adjusting mechanism, and does not include such an element of a prior art mechanism that protrudes outwardly of a vehicle frame. (col 5, lines 31-37).

Thus, one of ordinary skill in the art would not be led by Kataoka to modify the well known lever-style height adjustment mechanisms identified as inferior prior art and similar to the device of Yonemoto in any manner close to what the examiner proposes in his rejection, but rather would be instructed to abandon such a design in favor of the new design called for by Kataoka.

Accordingly, when the art relied upon by the examiner in rejecting claim 36 is considered as a whole, including those express teachings against what the examiner proposes, and without the benefit of impermissible hindsight reconstruction based on applicant's own disclosure, it is clear that the rejection fails to provide the proper evidence to support a *prima facia* rejection. As such, it is respectfully requested that the examiner reconsider and withdrawal the rejection of claim 36 as being obvious over Yonemoto in view of Kataoka.

Claim 40:

The rejection of claim 40 over Yonemoto in view of Kataoka is respectfully traversed. As with claim 36 above, the examiner concedes that Yonemoto fails to teach an intermediate hub in the body of the lever as called for by claim 40. For the same reasons given above in support of the allowability of claim 36, it is respectfully submitted that the examiner has failed to establish a proper *prima facia* rejection of claim 40. There is nothing in either reference that would invite modifying the lever of a traditional lever-style height adjustment mechanism in the manner proposed by the examiner. Kataoka expressly teaches that such levers are to be eliminated in favor of the completely different adjustment device that uses no lever disclosed by Kataoka. It is clear that the examiner is disregarding these important express teachings of the references that would lead one of ordinary skill away from the claimed invention and is relying on conjecture and impermissible hindsight reconstruction to support the rejection. Such is neither proper nor obvious. Accordingly, it is respectfully requested that the examiner reconsider and withdraw the rejection of 40.

The remaining claims are dependant either on claim 36 and 40 and are believed allowable for at least the same reasons. The dependant claims distinguish over their parent and one another by reciting applicant's invention in greater detail.

It is believed that this application is now in condition for allowance. Further and favorable action is requested.

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Response to Office Action of 08-10-07

The Patent Office is authorized to charge any fee deficiency or refund any excess to Deposit Account No. 04-1061.

Respectfully submitted,

DICKINSON WRIGHT PLLC

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/Robert L. Stearns/
Robert L. Stearns, Registration No. 36,937
38525 Woodward Avenue, Suite 2000
Bloomfield Hills, MI 48304-2970
248-433-7382